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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,847	10/30/2003	Arkady Glukhovsky	P-5476-US	8263

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PEARL COHEN ZEDEK LATZER, LLP  
1500 BROADWAY 12TH FLOOR  
NEW YORK, NY 10036

EXAMINER
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SMITH, PHILIP ROBERT

ART UNIT	PAPER NUMBER
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3739

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/19/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/695,847	Applicant(s) GLUKHOVSKY ET AL.	
	Examiner Philip R. Smith	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3,5-15,17-20 and 22-32 is/are pending in the application.
- 4a) Of the above claim(s) 5-7,9,11,22-24,26,31 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,8,10,12-15,17-20,25 and 27-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

**Claim Rejections - 35 USC § 102**

[01] Outstanding rejections are withdrawn in view of the amendments of 1/11/07.

**Claim Rejections - 35 USC § 103**

[02] The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

[03] Claims 1-3,8,10,12-15,17-18,20,25,27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski (2001/0051766) in view of Denen (5,400,267).

[04] With regard to claims 1,3,18:

[04a] Gazdzinski discloses a self-contained in-vivo device ("probe 300," [0171]) comprising:

- an internal battery ("a battery may be used [within the probe 300]," [0155]);
- a wireless transmitting device ("inductive data terminals 532, 540" [0171]); and
- an operation blocker ("microcontroller 520," [0171]) disposed therein, wherein said operation blocker is for preventing activation of said device ("probe is deactivated," [0208]).

[04b] Gazdzinski does not disclose a non-volatile memory composing the operation blocker ("520") configured for assuming a designated state upon exceeding a total elapsed time of operation of said device.

[04c] Denen discloses an operation blocker (comprising "control module 36" & "non-volatile memory 30" for burning a "utilization history," 10/46-57) configured for assuming a designated state (11/22-27) upon satisfaction of a specified condition ("maximum equipment actuation time," 10/42-45).

[04d] At the time of the invention, it would have been obvious to a person of ordinary skill in the art that the "microcontroller 520" disclosed by Gazdzinski be modified to include the "non-volatile memory 30" for burning a "utilization history," as disclosed by Denen. A skilled artisan would be motivated to do so in order "to disable the equipment when a manufacturer specified utilization limit has been exceeded" (4/45-46), thereby eliminating liability for use of flawed or faulty equipment.

[05] With regard to claim 2: The deactivation taught by Denen is permanent.

[06] With regard to claim 8: Gazdzinski discloses a timer ("clock 524," [0159]).

[07] With regard to claim 10: The device disclosed by Gazdzinski in view of Denen is activated prior to deactivation.

[08] With regard to claim 12: The "microcontroller 520" disclosed by Gazdzinski remains activated after replacement of a battery.

[09] With regard to claim 13: Gazdzinski's device is autonomous.

[10] With regard to claim 14: As noted above, Gazdzinski in view of Denen discloses an in-vivo sensing device comprising a non-volatile circuit capable of preventing reactivation of said device after said device has been used for a medical exam and

after a specified threshold level has been exceeded.

- [11] With regard to claim 15: The “microcontroller” disclosed by Gazdzinski comprises “internal memory” ([0156]).
- [12] With regard to claim 17: As noted above, Gazdzinski in view of Denen discloses a method for preventing reuse of an in-vivo device comprising activating a permanent operation blocker in said device after a time of operation threshold has been exceeded.
- [13] With regard to claim 20: As noted above, Gazdzinski discloses a method for blocking activation of a self-contained in vivo device comprising a wireless transmitting device therein, and configuring a circuit (“520”) to block activation of the in-vivo device after a time of operation threshold has been exceeded.
- [14] With regard to claim 25: Gazdzinski discloses configuring said circuit (“520”) to permit continued operation of said device after a time of operation threshold has been exceeded.
- [15] With regard to claim 27: As noted above, Gazdzinski discloses a method of operating an autonomous in-vivo sensing device, having a wireless transmitting device therein, the method comprising permanently preventing the operation of said autonomous in-vivo sensing device upon the satisfaction of a specified condition.
- [16] With regard to claim 28: The operation of said autonomous in-vivo device includes imaging (“CCD array 402,” [0153]).

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[17] With regard to claim 29: As noted above, Gazdzinski discloses configuring a circuit ("520") to block activation of at least a portion of the device.

[18] With regard to claim 30: As noted above, Gazdzinski discloses a memory which is burned in association with its inherent function.

**Additional Claim Rejections - 35 U.S.C. 103**

[19] Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gazdzinski in view of Kane.

[20] Gazdzinski discloses the deactivation of a probe via a microcontroller, but does not disclose that the deactivation comprises melting of an insulation.

[21] Kane discloses a mechanism which includes a "thin breachable or breakable membrane 38... preferably formed of... plastic... designed to melt or break" (2/49-54). In reduction to practice at the time of the invention, it would have been obvious to a person of ordinary skill in the art that the invention disclosed by Kane be used as a means of deactivating the probe 300. A skilled artisan would be motivated to do so in order to physically incapacitate a probe which is deactivated.

**Response to Arguments**

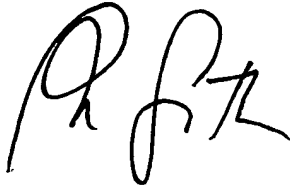
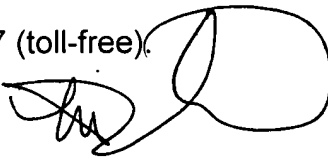
[22] Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### Conclusion

- [23] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
- [24] A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.
- [25] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087 and whose email address is philip.smith@uspto.gov. The examiner can normally be reached between 9:00am and 5:00pm.
- [26] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764.

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[27] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'R. F. K.', located on the left side of the page.A handwritten signature in black ink, appearing to be 'Linda C. M. Dvorak', located to the right of the main text block.

**LINDA C. M. DVORAK**  
**SUPERVISORY PATENT EXAMINER**  
**GROUP 3700**